

Supreme Court, U. S.

FILED

NOV 16 1978

MICHAEL ROUAK, JR., CLERK

APPENDIX

IN THE  
**Supreme Court of the United States**  
OCTOBER TERM, 1978

NO. 77-1686

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LEO SHEEP COMPANY AND  
PALM LIVESTOCK COMPANY,

*Petitioners,*

- v. -

UNITED STATES OF AMERICA,  
SECRETARY OF THE INTERIOR, AND  
DIRECTOR, BUREAU OF LAND MANAGEMENT,

*Respondents.*

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ON WRIT OF CERTIORARI TO THE UNITED STATES  
COURT OF APPEALS FOR THE TENTH CIRCUIT

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PETITION FOR CERTIORARI FILED MAY 26, 1978  
CERTIORARI GRANTED OCTOBER 2, 1978

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UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF WYOMING

No. C74-127

LEO SHEEP COMPANY, PALM  
LIVESTOCK COMPANY and ELK  
MOUNTAIN SAFARI, INC.,  
*Plaintiffs,*

v.

UNITED STATES OF AMERICA,  
ROGERS C. B. MORTON, Secre-  
tary of Interior, and  
BURTON W. SILCOCK, Director,  
Bureau of Land Management,  
*Defendants.*

DOCKET ENTRIES

DATE	PROCEEDINGS
Aug. 6, 1974	Complaint filed. Summons and copies issued.
Sept. 19, 1974	Summons with Marshal's return of service by registered mail upon Mr. Morton; Mr. William B. Saxbe, Atty. Gen.; and Mr. Sil- cock, filed. (on 9-6-74)
Dec. 4, 1974	Answer of defts., filed.
Apr. 17, 1975	Interrogatories propounded to defts. by pltf., filed.
May 9, 1975	Defendant's answers to plaintiff's inter- rogatories, filed.

June 10, 1975 Defendant's interrogatories to pltf., filed.

June 24, 1975 Second set of interrogatories propounded by pltfs. to defts., filed.

June 24, 1975 Request of pltfs. for production of documents, filed.

June 24, 1975 Separate answer to pltfs.' second set of interrogatories, filed.

June 30, 1975 Order for pre-trial conference on August 1, 1975 at 1:30 P.M., filed, copies to counsel.

July 14, 1975 Answers by pltfs. to interrogatories propounded by defts., filed.

July 22, 1975 Pre-trial memorandum of defts., filed.

July 23, 1975 Pre-trial memorandum of pltfs., filed.  
List of pltfs.' witnesses and exhibits, filed.

July 24, 1975 Defendants' supplemental exhibits and witnesses, filed.

Aug. 1, 1975 Pre-trial held this date.

Aug. 1, 1975 Order striking trial assignment of August 7, 1975; Parties given 10 days from the date of this order to file stipulations of facts and motions for summary judgment; and parties given 55 days from date of this order to file simultaneous proposed findings of fact and conclusions of law and memoranda brief, filed, copies to counsel.

Aug. 11, 1975 Motion of plaintiffs for summary judgment, filed.

Aug. 11, 1975 Stipulation of facts, filed.

Aug. 11, 1975 Amended Complaint, filed.

Aug. 11, 1975 Notice of dismissal of complaint by plaintiff, Elk Mountain Safari, Inc., filed.

Aug. 11, 1975 Amendment to complaint by plaintiffs Leo Sheep Company and Palm Livestock Company, filed.

Aug. 11, 1975 Certificate of service, filed.

Aug. 11, 1975 Motion for summary judgment by defendants, filed.

Sept. 5, 1975 Answer of defts. to amended complaint, filed.

Sept. 12, 1975 Supplemental exhibit of United States, filed.

Sept. 15, 1975 Motion of pltfs. to strike affirmative defense in Answer to Amended Complaint, filed.

Sept. 26, 1975 Plaintiffs' memorandum in support of motion for summary judgment, filed.

Sept. 26, 1975 Plaintiffs' proposed findings of fact and conclusions of law, filed.

Sept. 26, 1975 Defendants' proposed findings of fact and conclusions of law, filed.

Sept. 26, 1975 Defendants' proposed judgment, filed.

Sept. 26, 1975 Defendants' memorandum of law, filed.

Oct. 15, 1975 Defendants' substituted proposed findings of fact and conclusions of law, filed.

Oct. 15, 1975 Defendants' substituted proposed judgments, filed.

Oct. 15, 1975 Defendants' memorandum supplement, filed.

Oct. 16, 1975 Opposition to motion to strike affirmative defense, with affidavit attached, filed.

Nov. 13, 1975 Findings of fact and conclusions of law supporting plaintiffs' motion for summary judgment, filed, copies to counsel.

Nov. 13, 1975 Summary judgment sustaining motion of plaintiffs for summary judgment and denying motion of defts. for summary judgment, parties to pay own costs, ent. and filed, and copies to counsel.

Jan. 8, 1976 Notice of appeal filed by defts. & copies to counsel & Clerk, U.S.C.A. Denver, Colo.

UNITED STATES COURT OF APPEALS  
FOR THE  
TENTH CIRCUIT

No. 76-1138

LEO SHEEP COMPANY and  
PALM LIVESTOCK COMPANY,  
*Plaintiffs-Appellees,*

v.

UNITED STATES OF AMERICA,  
SECRETARY OF THE INTERIOR,  
and CURT BERKLUND, Director,  
Bureau of Land Management,  
*Defendants-Appellants.*

## DOCKET ENTRIES

DATE	FILINGS-PROCEEDINGS
Mar. 8, 1976	Cause docketed; record on appeal, Vol. I (pleadings) (345 pp.), orig. Order — docketing statement due 3/18/76 — Lewis
Mar. 10, 1976	Docketing Statement — c/s
May 24, 1976	<u>Record on Appeal</u> — Vol. I
June 1, 1976	Brief of Appellant U.S.A. — c/s
June 22, 1976	Brief of Appellee Leo Sheep Co. — c/s
July 9, 1976	Appellant U.S.A.'s reply brief — c/s
Jan. 26, 1977	Argued and Submitted — McWilliams, Barrett, Doyle

May 17, 1977      Opinion: McWilliams, Barrett, Doyle — PUBLISH  
 JUDGMENT: Reversed and remanded.  
 Judge Barrett dissenting

May 31, 1977      Appellees' petition for rehearing en banc — c/s (to en banc panel)

June 2, 1977      Order: United States is granted until 6/16/77 within which to file an answer to the petition for rehearing and suggestion for rehearing en banc — McWilliams

June 20, 1977      Appellant's response to petition for rehearing — c/s (to panel and en banc panel)

Feb. 28, 1978      Order: Upon consideration, petition for rehearing is denied, suggestion for rehearing en banc is denied. An opinion on petition for rehearing is being filed contemporaneously with the entry of this order. (SEE ORDER BOOK FOR COMPLETE ORDER). En banc panel  
 OPINION: McWilliams, Barrett, Doyle — PUBLISH  
 JUDGMENT: Petition for rehearing is denied

Mar. 8, 1978      Mandate only to District Court  
 Original Record on Appeal to District Court

Mar. 8, 1978      Motion for stay of mandate (Appellee's) — c/s (RECEIVED) (to panel 3/9/78)

Mar. 13, 1978      Order: Upon consideration of the motion of appellees for stay of mandate, filed 3-8-78, which the court treats as a motion for recall of mandate and the stay of it pending application for certiorari, it is the order of the Court as follows:  
 1. Mandate issued 3-8-78, is recalled.  
 2. Issuance of the mandate is stayed until 4-12-78, and if on or before that date there is filed with the Clerk of the Court of Appeals for the Tenth Circuit a notice from the Clerk of the Supreme Court of the United States that appellant has timely filed a petition for writ of certiorari, the stay shall continue until final disposition by the Supreme Court. (McWilliams, Barrett, Doyle)

Mar. 13, 1978      Receipt for original record on appeal  
 Receipt for mandate

Mar. 17, 1978      Mandate returned from district court

Apr. 12, 1978      Appellees' motion for ext. of stay of mandate to 5/29/78 pending certiorari — c/s (to panel 4/12/78)

Apr. 20, 1978      Order: Upon consideration whereof, appellees motion for extension of stay of mandate is granted. Issuance of mandate is stayed to 5/29/78. If on or before that time notice from the Supreme Court is received that certiorari has been filed, stay shall continue until final disposition by Supreme Court. McWilliams, Barrett, Doyle

June 5, 1978 Supreme Court notice of filing of petition for writ of certiorari on 5/26/78 in No. 77-1686

Oct. 5, 1978 Certified copy of Supreme Court order GRANTING certiorari on 10/2/78 in No. 77-1686

*NOTE:* The following items are not reprinted in this Appendix because they are reproduced as indicated below in Appendices A and B in the petition for writ of certiorari filed by petitioners herein:

Appendix A:

Pages i to v:

Findings of Fact and Conclusions of Law Supporting Plaintiffs' Motion for Summary Judgment, United States District Court for the District of Wyoming

Appendix B:

Pages vi to xx:

Opinion, United States Court of Appeals for the Tenth Circuit

Pages xxi to xxii:

Order Denying Rehearing and Denying Rehearing En Banc, United States Court of Appeals for the Tenth Circuit

Pages xxiii to xxvii:

Opinion on Petition for Rehearing, United States Court of Appeals for the Tenth Circuit